TAX ADMINISTRATION IN NEW JERSEY

The acknowledged importance of the subject of taxation, on account of the many respects in which it affects the economic and political life of the states and the nation has led, within recent years, to a noteworthy increase in the interest manifested in its various phases. With this increased interest has come also a more widespread realization of the need for reform, particularly in the tax systems of the states. Suggested projects for reform in this direction have, however, too often been based upon insufficient data and a too circumscribed view of the historical development of the subject. There is at the present time no up-to-date work which treats adequately the tax systems of the states from the historical and practical standpoints. The difficulty is that much of the material for the writing of such a work lies buried among the archives of the forty-odd commonwealths and will have to be unearthed, studied, and analyzed before such a work can be satisfactorily written. For some states this preliminary work has already been done. The present paper is a modest attempt to perform a similar service for a state whose tax system presents some features of more than ordinary interest. Moreover, a detailed study of the history of tax administration in New Jersey reveals certain general principles which apply, with some exceptions, to other states the roots of whose tax systems go back into the Colonial era.

Considered both from the standpoint of the sources from which the state derives its income and from that of the administrative methods adopted for collecting its revenue, the history of tax administration in New Jersey falls roughly into three periods. The first period extends from the founding of the colony to the second decade of the nineteenth century, and is characterized by the almost universal use of specific property taxes. With regard to the machinery of collection during this period, very slight differentiation of method is discernible. The second period extends from the second to the eighth decade of the nineteenth century

and is noteworthy for the rapid rise of new and important forms of wealth. In an attempt to reach these new forms of wealth, the specific property tax is transformed into the general property tax, but the attempt fails because the same and existing machinery collection is utilized to perform new and essentially different functions. The third period covers the last thirty years and is marked by the abandonment of the direct property tax for general state purposes, by the increasing complexity of the new forms of wealth, and by the differentiation in the method of collection in order more effectually to reach the important classes of these new objects of taxation.

The principal kinds of taxes resorted to at the earliest period of New Jersey's history were direct taxes upon specified articles of property, and polls, together with an occasional occupation or business tax. From the first meeting of the General Assembly in 1668 to the union of East and West Jersey in 1702, no settled policy was manifested in the administration and collection of these taxes. During this experimental stage it is possible to discern three distinct methods of collection which were adopted either separately or in combination. These were (*a*) requisitions upon towns, (*b*) utilization of existing functionaries, and (*c*) the direct and express creation of instrumentalities of collection.

The first and most rudimentary method provided no special machinery for the collection of the tax. The total amount to be raised was apportioned among the half-dozen towns of which the colony was then composed and they were directed by law to pay their respective quotas to a person designated in the act to receive them.[1] The capital defect of this method was that it placed no direct pressure upon individual taxpayers but dealt with them only through the mediation of the towns; and no provision was made for compelling the towns to comply with the requirements of the act. The attempt to raise funds in this way probably proved ineffectual, for it was very quickly abandoned.

The second method of tax collection adopted during this early

[1] Thus, in 1668 it was enacted that £30 be raised for defraying the expenses of the provincial government. Each of the six towns was directed to pay £5 to Jacob Mollins of Elizabeth.—Leaming and Spicer, *Grants and Concessions*, p. 81. Cf. also John Whitehead, *Judicial and Civil History of New Jersey*, I, 119.

period consisted in the utilization of the existing machinery of local government, and there was thus no direct exercise of creative power by the legislature. The existing local officials selected were those already engaged chiefly in the discharge of police functions, such as the town constable, marshal, and justice of the peace. Thus, the town constable was authorized to collect taxes and to lay distraint upon the goods of delinquent taxpayers by virtue of a warrant issued by a justice of the peace of the same town. In case of the failure of the constable to perform this duty, the marshal was given power to seize his goods.[1] These officials, with the exception of the appointed justices, were elected by the voters of the localities, and the reliance of the legislature was thus placed upon officers in no way responsible to itself. The control which the General Assembly exercised over them was so feeble that that body soon found itself "uncapable to settle and balance accounts with the county treasurer"[2] through the neglect of the local officers in performing the duties laid upon them by act of Assembly.

In the matter of raising funds for purposes which we should now consider of general state interest but which were then considered of merely local concern, the existing local machinery was utilized not only for the collection of taxes but also for the making of rates. This, it will be seen, was tantamount to a delegation of the taxing power. Thus for the purpose of raising funds with which to build highways, bridges, and jails and to pay the salaries of their representatives in the General Assembly, the inhabitants of the towns of East Jersey were authorized to choose men who, in conjunction with the justices of the peace at Quarter Sessions, were empowered to levy taxes for the above purposes.[3]

The third method of tax collection adopted during this early period consisted in the express and direct creation by the General Assembly of the instrumentalities to be used for that purpose. The full realization of this plan was not arrived at suddenly, but

[1] N.J. Laws: acts of 1676, Leaming and Spicer, *op. cit.*, pp. 119, 121.

[2] Preamble to act of 1677, Leaming and Spicer, *op. cit.*, p. 125.

[3] N.J. Laws: acts of 1686, 1693, and 1698, Leaming and Spicer, *op. cit.*, pp. 294, 333, 372. In West Jersey the delegation to the localities of legislative power over taxation was carried to an even greater extent.—Acts of 1684 and 1693, Leaming and Spicer, *op. cit.*, pp. 493, 521.

only by gradual and hesitating steps. The first financial officers appointed by the Assembly were not regular officers holding permanent positions but were appointed temporarily to perform special functions in connection with a particular levy.[1] In 1675, however, the office of county treasurer was created.[2] This officer was allowed a percentage on his receipts and, significantly enough, was made responsible to the Assembly rather than to the governor.[3] For the actual collection of taxes, however, the county treasurer was still dependent on the local officers before described. The proceeds of the levy were paid by the town constables directly to the county treasurer. The amount of supervision exercised by centrally appointed officers over the collection of taxes was increased, however, when in East Jersey the Assembly appointed commissioners and treasurers in each county. In the attempt to avoid some of the evils of self-assessment which had been the regular method in vogue, the county commissioners were given general authority to see that individual taxpayers were properly assessed. They were also empowered to issue warrants to the town constables to make distress upon the goods of delinquents.[4] The county treasurers were to receive the rates directly from the taxpayers in each county. They were made accountable to the governor of the province for the proper discharge of their duties,[5] and were required to pay the proceeds of the tax to such persons as he should direct. Thus a group of centrally appointed officers was superimposed upon the local machinery of tax administration.

In West Jersey this tendency toward centralization was carried still farther. At first, it is true, each town within the province was given power to levy taxes and to choose assessors and collectors, who were to pay the proceeds to the provincial treasurers.[6] It appears, however, that this provision was "not at all in some places

[1] Thus, at the second session of the legislature of 1668, two persons (one a member of the Assembly) were directed to go to the towns that had not paid the amounts assessed on them at the previous session, for the purpose of collecting such arrears.—Whitehead, *Judicial and Civil History of New Jersey*, I, 124.

[2] Leaming and Spicer, *op. cit.*, p. 103.

[3] N.J. Laws: act of 1682, Leaming and Spicer, *op. cit.*, p. 274.

[4] *Ibid.*, act of 1688, Leaming and Spicer, p. 306. [5] *Ibid.*

[6] *Ibid.*, act of 1684, Leaming and Spicer, p. 493; act of 1693, Leaming and Spicer, p. 521.

obeyed, and in others not prosecuted to effect, and that some refused to obey the justices' warrants to choose assessors and collectors; while others, being chosen to those offices, refused to execute them, and some refused to pay what is their just due when lawfully demanded."[1] Hence in 1701 the Assembly itself named and appointed the assessors and collectors of taxes in each township in the province.[2] In case any of the assessors or collectors failed to perform their duties under the act within the allotted time, the governor and council were empowered to remove them and appoint others in their places. This drastic measure, it will be seen, combined both legislative and administrative centralization to a considerable degree. Nevertheless, even here the machinery of local government was not entirely abandoned, for the assistance of the town constable was used in proceeding against delinquents. The proceeds of the tax were to be paid by the collectors in each township directly to the provincial treasurer.

The act of 1704, the first tax law passed by the General Assembly after the union of East and West Jersey, showed no breaking-away from the tendency toward legislative centralization exhibited during the separation. This act provided for levying a direct tax on specified articles of property, and also a tax on certain occupations. Two assessors and one collector in each of the nine counties were appointed and named in the act. In case any of them failed to perform the duties of their offices, the justices of the peace in each county were to appoint others in their places. The taxpayers, having been notified by the constables in each town of the amounts assessed upon them by the assessors, were to pay such sums directly to the collector of the county. In case any failed to pay, the town constable was authorized, by virtue of a warrant from a justice of the peace, to make distress upon the delinquent's goods and to pay the proceeds of the tax sale to the county collector. The last-named officer, after deducting fees and costs, was required to pay his receipts to the receiver-general of the province.[3]

[1] Preamble to act of 1701, Leaming and Spicer, p. 581.

[2] Act of 1701, Leaming and Spicer, p. 581.

[3] Laws of N.J. General Assembly, 1704. Bradford's edition of 1709. This act was disallowed by the crown, but not until after it had been carried into effect. See Tanner, *The Province of New Jersey* (Columbia University Studies), p. 503.

It will be noticed that, with the exception of the town constable, this act entirely dispensed with the machinery of local government in the collection of the tax. The same method was adopted in the acts passed in 1709 and in 1713 for the purpose of raising provincial levies. Although we find traces at an earlier date of popular election by the towns of their own assessors and collectors,[1] there was apparently no regularly established procedure for choosing them. It was probably for this reason that, in the act of 1704, it was provided, as we have seen, that the county collector should receive the tax directly from the individual taxpayer. This method did not allow sufficiently close supervision over the actual collection from individuals, and the consequence was that most of the counties were very seriously in arrears.[2] In 1709, however, the townships had been authorized to choose assessors and overseers or collectors to administer the local poor rate,[3] and in 1716 such local officers were, for probably the first time, utilized in the administration of a provincial tax. According to the act of that year, the assessment and collection of provincial taxes were intrusted to local officers elected annually by the voters of each town.[4] The town assessors in each county were to meet at the county seat and assess the inhabitants upon their "ratables" to make up the county's quota. The town collector gathered the tax and the town constable, by virtue of a warrant from a justice of the peace, was authorized to make distress upon the goods of delinquents, and to pay the proceeds of the tax sale to the town collector. The latter officer was to pay the amounts thus received to the county collector named by the General Assembly, who was in his turn required to pay the proceeds to such persons or uses as the Assembly might direct (usually to the provincial treasurer or receiver-general).[5] The act of 1716 thus laid the basis of that

[1] E.g., in West Jersey in 1693.—Leaming and Spicer, p. 521.

[2] N.J. Archives, XIV, 51, cited by Tanner, *op. cit.*, p. 537.

[3] Acts of N.J. General Assembly, 1709, Nevill's edition.

[4] Only in case a town neglected to choose such officers could the (now) appointed justices of the peace nominate persons to fill these positions, and by act of 1752 even in this case it was provided that the inhabitants of the towns should elect others in their places.

[5] Acts of N.J. General Assembly, 1716, Nevill's edition.

system of legislative centralization combined with administrative decentralization which became the most prominent feature of the entire tax system of the state.

The method of tax administration thus outlined was followed in levying the direct specific property and business taxes in a series of levies beginning with that of 1718. The act of 1730 still further weakened central control over the collection of provincial taxes. The county collectors were no longer to be appointed by the Assembly, but were to be elected indirectly by the voters of each county.[1] In 1713 a method had been provided for raising funds for county purposes, whereby two freeholders from each town, elected by the inhabitants of such town, together with the justices of the peace in the county, were to appoint assessors and collectors in each town to administer the county tax. This machinery of local taxation was now adopted for the purposes of a provincial tax. The majority of the freeholders thus chosen in each county together with three justices of the peace in such county were authorized annually to choose the county collector, and they could also call the collector to account as often as they saw fit.[2] Thus, by 1730, with the exception of the slight supervision exercised through the appointed justices of the peace,[3] the administration of the provincial direct tax had become almost entirely decentralized. It had assumed at that time those salient features which it retained for more than a century.

By certain later acts, however, while the general outlines of the decentralized system were retained, the attempt was made to establish certain restraints upon the free action of local officers, or to compel them to perform their duties more efficiently. Thus, by an act of 1752, the township assessors were required to deliver duplicates of their assessment lists to the town and county collectors, and the latter officer was required to transmit the same to the

[1] N.J. Laws of 1730, Bradford's print.

[2] In the hands of this body of chosen freeholders and justices of the peace came also to be lodged the power to determine the quotas of the respective towns in making up the county quota of the provincial tax, but by an act of 1783 this function was taken over by the board of town assessors.

[3] But, by the constitution of 1844, it was provided that the justices of the peace should be elected by the people at the annual town-meetings.

colonial treasurer. However, failure of the town assessor or county collector to perform this duty, or failure of the town collector to pay his receipts in full to the county collector, and of the latter to account fully in turn to the colonial treasurer, merely rendered them subject to suit entered in a court of law by their respective superior officers.[1] The control in this case, therefore, was primarily judicial rather than administrative. Remedies were also provided for private individuals who considered themselves aggrieved by the action of the local assessors. At first they were allowed an appeal to the next court of Quarter Sessions.[2] But, by the constitution of 1776, such appeals were to be entertained by a body of freeholders, called commissioners of appeal, who were to be elected by the people of each township at their annual town-meetings, and by an act of 1778 the decision of such commissioners was made final. Thus the essential features of the decentralized administration of the provincial direct tax remained unaltered.

Indirect taxation was relatively unimportant during the Colonial period. This form of taxation seems not to have been resorted to by New Jersey until after the union of the two divisions of the colony. The first customs act, the text of which is still extant, was passed in 1713, when an export duty was levied upon wheat and an import duty upon slaves.[3] The method adopted for collecting the tax was in both cases the simple and centralized system of collection by the collector of the customs, an officer appointed presumably by the governor, but the amount of whose fees was determined by the General Assembly. The collector of the customs was required to pay the proceeds of the tax to the provincial treasurer.[4] With the apparent intent of preventing the numerous evasions of the tax on slaves, the collection of the tax was in 1762 somewhat decentralized through the utilization of the county collectors for the purpose, but they were still subject to the central control of the General Assembly.[5] However, with the establishment of the federal government, custom duties ceased to be collected.

[1] By an act of March 17, 1865, the duty of suing in all such cases was laid on the newly created state comptroller of the treasury.

[2] Acts of N.J. General Assembly, 1716, Nevill's print.

[3] *Ibid.*, act of 1713, Bradford's print.

[4] *Ibid.*, act of 1725.

[5] *Ibid.*, act of 1762.

In 1716 an act was passed laying an excise on all strong liquors retailed in the colony. The collection of the tax was farmed out to private individuals on condition that they pay a lump sum annually to the receiver-general.[1] This experiment, however, was brief and this form of indirect taxation also remained relatively insignificant throughout the Colonial period.

CORPORATION TAXES

As has been indicated, the second decade of the nineteenth century marks the beginning of the period in which the increase of new forms of wealth becomes more rapid, and witnesses the vain attempt to adapt old methods of taxation to new conditions. In 1810 the first attempt was made to tax intangible wealth in the form of bank stock, the president and directors of specified banks being required to pay annually into the state treasury one-half of 1 per cent upon the paid-up capital stock. The method provided for enforcing the payment of this tax was similar to that hitherto employed for the enforcement of the payment of taxes on tangible property.[2] The same method was employed, by an act of 1826, in collecting the percentage tax on the gross amount of premiums received by agents of foreign insurance companies doing business within the state,[3] and later in enforcing payment of the tax of one-fourth of 1 per cent on the capital stock of insurance companies incorporated within the state.[4]

On February 4, 1830, the legislature passed acts incorporating the Delaware & Raritan Canal Co. and the Camden & Amboy Railroad Co. It was provided in the acts of incorporation that, upon completion of the lines, the proper officers of the companies should make, under oath, quarterly returns of the number of passengers and of the amount of freight transported and thereupon should pay to the state treasurer a lump sum per passenger and per ton. Subsequently, in a long series of special acts incorporating railroad companies, the president and treasurer of each road were

[1] *Ibid.*, act of 1716.

[2] N.J. Laws: act of November 2, 1810.

[3] *Ibid.*, act of December 26, 1826.

[4] *Ibid.*, act of January 21, 1831.

required to make, under oath, statements of the cost of the road and of its earnings until the net income should amount to 6 per cent upon its cost, whereupon the road should pay to the state an annual tax of one-half of 1 per cent on the cost.[1] In none of these acts, however, was any adequate means provided for compelling the making of the returns, nor for verifying the returns when made, nor for inspecting the books and accounts of the companies. This practically amounted to self-assessment or voluntary contributions in the form of taxes.[2] Much confusion was produced by the practice of providing separately for the taxation of each company in its charter of incorporation instead of by uniform laws of general application. Disputes respecting transit duties and taxes frequently arose between the state treasurer and the railroads,[3] and investigations showed that mistakes had been made involving the loss of thousands of dollars to the state.[4] These conditions forced the conclusion that the property of railroad, telegraph, etc., companies was of such a peculiar character that it could not be adequately reached by the methods of taxation hitherto employed.

The middle of the century saw the abandonment of the specific property tax. In 1851, the first general property tax act was passed, which rendered liable to taxation all real and personal property, whether owned by individuals or corporations.[5] The attempt to reach the property of particular classes of corporations subsequently resulted in the passage of special acts with that end in view. In 1873 the state for the first time created a special organ with the function of making an official valuation of the real property of railroad corporations. By an act of that year the governor was

[1] Cf., e.g., act of February 22, 1849.

[2] Certain companies, notably telegraph companies, were at first expressly exempted from taxation altogether. Cf., e.g., the act of March 19, 1845, incorporating the N.J. Magnetic Telegraph Co.

[3] Cf. the legislative joint resolution of February 29, 1840.

[4] Message of Governor Newell, appendix to N.J. House Minutes, 1860, p. 9. By legislative joint resolution of February 13, 1849, a committee was appointed to investigate the charge that the Delaware & Raritan Canal Co., and the Camden & Amboy Railroad Co., had defrauded the state out of large sums of money payable under their charters.

[5] N.J. Laws: act of March 14, 1851.

authorized annually to appoint a commissioner of railroad taxation, whose duty it should be to fix judicially the valuation of all such property (except the main stem), and to certify the same to the state comptroller. This valuation was used in taxing the property for local purposes, and no appeal was allowed from the decision of the commissioner.[1] Three years later the function of the commissioner was taken over by a board of railroad commissioners, consisting of the comptroller, treasurer, and commissioner of railroad taxation, to whom was given the power to estimate the "true value" of the road and equipment as a basis for the state tax of one-half of 1 per cent thereon.[2]

In 1884 a new method of taxing railroad and canal property was established, which, in its main features, is still retained. By the act of that year, a state board of assessors was created, composed of four members appointed by the governor with the approval of the senate, to which was given jurisdiction over the assessment of all property of railroad and canal corporations, used for railroad or canal purposes. Such property was to be divided into the following four classes and valued separately: (*a*) the main stem; (*b*) real estate used for railroad or canal purposes, except main stem; (*c*) tangible personal property; (*d*) franchise. Upon classes (*a*), (*c*), and (*d*) a state tax of one-half of 1 per cent was levied; upon class (*b*) the local rate was added to the one-half of 1 per cent, but in no case was the tax to exceed 1½ per cent. In accordance with the recommendation of the Tax Commission of 1897, an act was passed the following year which provided that the proceeds of the tax on class (*b*) should be paid over to the respective taxing districts wherein the property was located.[3] By the Perkins act of 1906 the average tax rate of the state is to be ascertained by dividing the value of the total amount of property in the state into the total amount of revenue to be raised by taxation, and this rate is to be applied to the railroad property included in classes (*a*), (*c*), and (*d*).[4] This measure produced a very considerably increased

[1] N.J. Laws: act of April 2, 1873.

[2] *Ibid.*, act of April 13, 1876. The change of the basis from cost to "true value" was necessitated by the constitutional mandate of 1875.

[3] N.J. Public Laws: act of March 31, 1897.

[4] *Ibid.*, act of April 5, 1906.

revenue over that raised by the former rate, and by an act of the same year it was provided that this net increase should be applied to the support of the public-school system of the state.[1] The act of 1884 and the supplements thereto, together with other acts based on similar principles which cannot be described here, mark the adoption by New Jersey of an almost complete differentiation of method and specialization of function with regard to the taxation of a typically peculiar and important form of wealth.[2] The result was so productive of revenue[3] that the state was thereafter enabled to dispense with any direct property tax for general state purposes.[4]

EQUALIZATION OF TAX ASSESSMENTS

At the inception of New Jersey's tax history, the apportionment of taxes among individuals followed chiefly the traditional method (if such it may be called) of self-assessment. But, in 1688, county commissioners were appointed by the East Jersey legislature, with power to amend the account given by any individual within the county of the extent of his ratable estate.[5] This supervision over individual assessments, however, was soon abandoned, and by an act of 1716, valuations of individual ratables were made (within the limits allowed by the legislature) by the town assessors, who based their estimates largely upon the declarations of the taxpayers.[6]

The earliest form of tax apportionment between districts was the method of levying stated sums upon the various taxing districts by act of the legislature. This taxing district was sometimes the

[1] Public Laws, 1906, p. 272.

[2] For further details regarding the taxation of corporations in New Jersey, see Black, *N.J. Law of Taxation*, and the report of the U.S. Commissioner of Corporations on the *Taxation of Corporations in the Middle Atlantic States*, 1910, pp. 33–51.

[3] In 1909, out of a total revenue of $8,637,221, corporations paid into the state treasury $6,780,536 or 78 per cent. Deducting the receipts from sources other than taxes, the proportion of state taxes contributed by corporations was 92 per cent.—Report of State Treasurer, 1909, N.J. Legislative Documents, 1909, I, 17.

[4] A direct state tax, however, continued to be levied for the support of the public schools.

[5] Act of 1688, Leaming and Spicer, *Grants and Concessions*, p. 306.

[6] By the constitution of 1776 and by the act of March 9, 1848, the commissioners of appeal might, in their judgment, increase individual assessments or insert new names and their judgment was made final.

town,[1] but more usually the county.[2] The amounts levied probably were originally mere rough estimates of the ability of the respective districts to contribute to the support of the government. Later the quotas of the various districts were based upon the returns of their ratable estates made by the inhabitants to the local assessors.[3] The quotas settled by the legislature upon the taxing districts, even if equitable at first, soon became disproportionate through fluctuations of values. This tendency of property to change in value was accentuated by the ravages of the British in the Revolutionary War. Consequently, in 1778, the method of legislative apportionment by quotas was temporarily abandoned, and a definite rate was laid on the pound value of estates, and a fixed or limited sum on sundry articles called "certainties."[4] Thereafter, however, legislative control gave way to administrative by the transfer of this duty to the state comptroller.[5]

The township quotas were determined by the majority of the board of township assessors in the respective counties upon the basis of their lists of certainties in each township and the returns of their ratable estates made by the inhabitants.[6] The county apportionment, both by the legislature and by the comptroller, was based largely upon the abstracts of ratables made by the several county boards of assessors. Hence the county quota was practically determined by the board of township assessors in each county, and the

[1] Acts of 1668 and 1694, Leaming and Spicer, *op. cit.*, pp. 81, 349.

[2] Act of 1682, Leaming and Spicer, p. 274; acts of 1709, 1713 (Bradford).

[3] By act of 1751, lists of ratables were required to be made by the local assessors for the special purpose of enabling the legislature to determine the quotas of the several counties in levying a provincial tax. This method of securing information did not prove reliable, in the opinion of the legislature, for it "appeared upon inspection of the assessment lists laid before the General Assembly that there were great deficiencies; and the form and directions prescribed by law have not been observed by many of the assessors, nor a true and exact return made by the quantity of land in their several townships."—Preamble to act of 1768.

[4] N.J. Laws: act of March 26, 1778.

[5] *Ibid.*, act of March 17, 1870. Apportionment by the comptroller continued from 1870 to 1883, since when, as already noted, there has been no direct tax in New Jersey for general state purposes.

[6] *Ibid.*, acts of December 20, 1783; June 10, 1799; March 14, 1851; April 11, 1866; and Wolcott's report, *Annals of Congress*, 1796–97, p. 2669.

incentive, therefore, was to undervalue the taxable property of the county as a whole. Again, each assessor had the same incentive to undervalue the property taxable in his township. On account of the lack of central supervision over the several hundred local assessors in the state, and the consequent want of any uniform system in making valuations, glaring inequalities arose both in the county and township quotas. The total valuations for the state increased slowly, and some counties showed large decreases while others showed abnormally large increases from year to year.[1] As early as 1851 the inequalities of assessment were so great that Governor Haines, in his annual message to the legislature, declared that "the passage of a law equalizing taxation among local taxing districts seems to be imperatively demanded."[2]

From time to time half-hearted attempts were made to remedy these abuses as between taxing districts within the counties. In 1846 it was provided, with respect to Mercer County, that the township committee of any township, believing their township to be unjustly taxed by the board of assessors in the apportionment of the taxes of the different townships in the county, might appeal from such assessment to the board of chosen freeholders of the county, and if, in the opinion of the board, injustice appeared to have been done, the latter might, within certain limits, alter the quota of such township.[3] By a special act of 1873 a county board of equalization was created for the important county of Hudson, to be composed of five commissioners, appointed by the judges of the circuit and common pleas courts of the county. The object of the creation of this board was principally to equalize assessments as between the various municipalities of the county, but, after the board had been in existence twenty years, the State Board of Taxation, upon investigation, reported that the assessments in the county lacked uniformity and equality, ranging from one-third to 80 per cent of the constitutionally required "true value," due, in part, to the unwillingness of the members of the board to increase the valuations of the municipality in which they happened to

[1] Report of State Comptroller, N.J. Legislative Documents, 1886, p. 10.

[2] Governor's Message, N.J. Legislative Documents, 1851, p. 13.

[3] N.J. Laws: act of February 20, 1846.

reside.[1] In 1883 express power was granted to the county boards of assessors in the remaining counties to raise the estimate of taxable property contained in the abstract of any township assessor.[2] Nevertheless, owing largely to the weakness of the system, the act failed of its purpose and the attempt to remedy the abuse of unequal apportionment within the county was confined almost entirely to reducing the quotas of those individuals or taxing districts which could show an unduly large assessment as compared with others.

In 1906 the Avis act was passed, which abolished all existing county boards of equalization or other local boards charged with the duty of reviewing assessments and created in each county a board for the "equalization, revision, review, and enforcement" of taxes, composed of three members appointed by the governor with the approval of the Senate, and removable by the governor for cause after a hearing.[3] In each county the board was given supervision and control of all tax assessors in every taxing district in the county, and it was made the express duty of the boards to "secure the taxation of all property in the various counties at its full and true value."[4] Governor Fort, in his annual message of 1910 to the legislature, strongly advocated the abolition of these county boards of taxation on the ground that "their object and purpose was solely to secure an increase of taxable values so that the average tax rate upon railway property might be reduced."[5]

Whatever the ulterior object of their creation may have been, the county tax boards have certainly fulfilled the primary expectation that they would assist in bringing about an increase in valuations. During the first year after the creation of these boards, the increase in the taxable values of the state was $416,000,000, or an amount equal to the combined annual increases for the preceding thirteen years. During the five years preceding the creation of the boards, the average annual increase was $52,000,000; during the five years succeeding their creation, the average annual increase was $178,000,000, or nearly three and one-half times as much.

[1] Fourth Annual Report, N.J. State Board of Taxation, 1894, p. 14.

[2] N.J. Laws: act of March 23, 1883.

[3] N.J. Laws: act of April 14, 1906.

[4] *Ibid.* [5] Governor's Message, N.J. Legislative Documents, 1909, I, 25.

Although it cannot be shown that the county tax boards were entirely responsible for this increase, nevertheless the facts as thus stated are significant.

Another element which must be taken into consideration as tending to bring about an increase in valuations was the creation and strengthening of state control through the supervision of central organs over local assessors and tax boards. Prior to the creation of the State Board of Taxation in 1891, there was evident need for a tribunal in which the action of local taxing officers and county boards of assessors could be cheaply and expeditiously reviewed in order that an equitable distribution of the state school and county tax might be effected. On account of variations in the valuations of county assessments, due to the lack of any adequate method of equalization, the proceeds of the state school tax varied, from 1875 to 1880, as much as $200,000. It sometimes happened that a majority of the assessors in a county would combine by submitting a total valuation of their taxing districts much less than actual value for the purpose of having such districts contribute less than their proportionate share toward the state school and county tax, the assessors from the other districts being in the minority and powerless to prevent the injustice.[1] An individual taxpayer whose property had been assessed at more than "true value" might secure redress through writ of *certiorari* to the Supreme Court, but, even in this case, the remedy proved expensive and cumbersome.

The Tax Commission of 1879 recommended that a system of equalization within the various counties be established by the action of a board to be composed of the township or ward assessors, together with a county assessor to be elected by the people; such assessors, so elected by the various counties, to form a state board of equalization, whose duty it should be to equalize the valuations among the various counties.[2] This recommendation was unheeded, but, in 1890, a commission was appointed upon the recommendation of Governor Abbott, which thoroughly investigated the subject and found that assessors valued property arbitrarily at from 25 per cent to 80 per cent of real value, that each newly elected assessor

[1] Second Annual Report of State Board of Taxation, 1892, p. 16.

[2] Report of State Tax Commission, N.J. Legislative Documents, 1880.

used the assessment books of his predecessor as the normal standard of value, and that, as a result, the relative valuations of property, of substantially the same value, were grossly different. The commission also found that the attempts to equalize taxes in the counties, made by the county boards of assessors, were very ineffective, and had resulted in a contest between the urban and suburban taxing districts, in which entire valuations of districts were arbitrarily increased or diminished.[1] The commission therefore recommended the creation of a state board of equalization and revision of taxes with such original and appellate powers as would enable it to secure a proper valuation of all property in the state. It further recommended that such board should be empowered to compel assessors of the different taxing districts to perform their duty and to compel the county boards for the equalization of taxes to discharge fully their functions. Finally, it recommended that the board be empowered to equalize taxes among the counties.[2]

The recommendations of the Commission of 1890 resulted in the establishment the following year of the State Board of Taxation for the "equalization, revision, and enforcement of taxation."[3] The composition of this board differed radically from that suggested by the Tax Commission of 1879. It was to be composed of three members, appointed by the governor with the consent of the Senate and removable by the governor. It was to meet annually to hear complaints of individuals, corporations, and taxing districts against their assessments, and was given power to reduce assessments justly complained of. The act was so framed that the board, though given the power to ascertain facts, was practically confined to reducing the assessments of such persons, corporations, or towns as appealed to it from the determinations of local tax officers. The absence of any specific grant of power to the board to increase assessments was one of the radical defects of the measure. In 1894, however, by a supplement to the act of 1891, it was provided that, whenever the board has reason to believe from information or otherwise that any property has been assessed at a rate lower than is consistent with the purpose of securing uniform and true

[1] N.J. Legislative Documents, 1891, I, 12 ff.

[2] *Ibid.*, p. 15.

[3] N.J. Laws: act of March 19, 1891.

valuation of property for the purpose of taxation, the board shall have the power, after due investigation, to increase such assessment.[1] By this act, the board, without waiting for formal complaint, could, on its own initiative, proceed to correct and increase unequal assessments; but, inasmuch as property throughout the state was almost universally assessed at less than its "true value,"[2] this additional grant of power placed an enormous burden upon the board. A single small body, acting for the whole state and without the assistance of efficient local tax boards, could scarcely be expected to effect a quick revolution in the tax system of the state. The board contented itself with interpreting its power in a conservative spirit, and, though it heard numerous complaints and corrected many inequalities of assessment, the annual increase in taxable values advanced at first but slowly.

In 1905 the State Board of Taxation was abolished and in its place was established the State Board of Equalization of Taxes with enlarged powers, for the "equalization, revision, review, and enforcement of taxation."[3] The new board consists of five members appointed by the governor with the consent of the Senate for a term of five years. The board is empowered to investigate complaints of any taxing district or county regarding unequal valuation and, either by reducing or increasing assessments, to bring about an equitable adjustment of values of both real and personal property of any kind, and belonging to any person or corporation. The board is also authorized to review and correct the action of local assessors or tax boards by reducing or increasing their assessments of property of any kind, and, if desirable, to direct an assessor to make a reassessment of such property in accordance with the rules established by the board. Furthermore, any local assessor wilfully failing to comply with the laws of the state relating to the assessment of taxes may be removed by the state board upon complaint of the county board of taxation.[4]

[1] *Ibid.*, act of May 17, 1894.

[2] In spite of the constitutional requirement that "property shall be assessed for taxes under general laws, and by uniform rules, according to its true value."—Constitutional Amendment, 1875, Art. IV, sect. vii, par. 12.

[3] N.J. Laws: act of March 29, 1905. [4] *Ibid.*, act of April 14, 1906, sect. 11.

The activity and usefulness of the board have steadily increased until, during the fiscal year 1909–10, it considered and passed upon 881 petitions of appeal from individuals, corporations, and taxing districts.[1] Under the system of tax administration provided by the State Board of Equalization and the county boards of taxation there has been a noteworthy increase in the aggregate taxable values of the state, which may be indicated as follows:

Year	Assessed Valuation	Increase over Previous Year
1904	$1,055,379,023	
1905	1,153,682,961	$ 98,303,938
1906	1,570,210,073	416,527,112
1907	1,841,527,418	271,317,345
1908	1,843,001,178	1,473,760
1909	1,949,687,287	106,686,109
1910	2,045,898,213	96,210,926

It will thus be seen that within six years the valuation has almost doubled. This remarkable result has been due, not to either the state or the county boards acting separately, but to the efficient co-operation between them.[2] Although the state board has the power to dismiss local assessors for cause, it is impracticable for that body to keep close watch over the performance of duties by the assessors of nearly five hundred taxing districts. This, together with other matters of local detail, can be better attended to by the county boards, thus allowing the state board to devote its attention more fully to general supervision and to the shaping of a broad state-wide policy. Such specialization of function does not necessarily produce looseness of control, for, just as the local assessors are under the supervision of the county boards, so the latter are under the supervision of the state board. No county board can adopt or act upon any rules of procedure until they have been approved by the state board, and any action or determination by any county board is subject, on appeal, to review and correction by the state board.[3] It is of course impossible for the state board to have a

[1] Sixth Annual Report of State Board of Equalization of Taxes, 1910, p. 5.

[2] After making allowance, of course, for natural increase.

[3] N.J. Laws: act of April 14, 1906.

sufficiently exact and voluminous knowledge of local conditions even to approximate perfect equalization of valuations in the localities. But progress has been made toward this goal through an adjustment between the action of widely diffused local bodies and the centralized control of the state board.

In spite of the undoubted progress that has thus been made, it should be noted, however, that in actual practice the effectiveness of central supervision over local assessments is not always so great as it may appear from a mere reading of the statutes. The power of the state board to remove local assessors upon complaint of the county boards is limited to cases where it can be proved that the local assessors have been wilfully negligent in the discharge of their duties. On account of the practical difficulties in the way of meeting this condition, and as a result of this serious limitation upon the power of the state board, cases have occurred in which the board has found itself unable to apply a remedy in the face of gross incompetence and manifest favoritism on the part of local assessors.[1] State-wide public opinion will have no means of correcting such abuses found under existing conditions until the state board is given a more untrammeled power of removal of local assessors, and this power might well be supplemented by allowing the board the further power of filling the vacancies thus created.

From the foregoing sketch of the history of tax administration in New Jersey, it will be seen that, through a long and somewhat tedious evolution, the tax system of the state has at last been brought into at least partial conformity with scientific principles. There are, of course, still many imperfections, many incongruities and lines of possible improvement. Expert assessments, almost the *sine qua non* of an efficient tax system based on valuations, have not been reached and cannot be, under the present method of selecting the officers whose business it is to make the assessments. The direct state property tax, even if levied only for the support of the schools, is based upon an outworn theory as to the proper source of state revenue, and should be abandoned. In spite of this defect, however, substantial progress has been made toward a separation

[1] *Fourth International Conference on State and Local Taxation, 1910*, p. 360.

of state and local revenue, with respect both to segregation of source and to division of yield. The income of the state is now derived chiefly from sources which do not contribute to the localities, and which, from their nature, are better suited to be sources of state than of local revenue. From the progress thus far made it may be expected that a complete separation will in time be brought about.

Inasmuch as the separation of state and local revenue is now one of the distinguishing characteristics of the tax system of New Jersey, it seems desirable, before concluding this paper, to consider one or two objections that may be urged against such a separation. It may be objected, in the first place, that such a separation tends toward financial decentralization and disintegration. Local taxing districts will largely manage their own affairs and local assessors will act independently of outside control, and the result will be chaos in local financial administration. It may be admitted that this would doubtless be the result unless a corrective were applied through the existence of some other factor in the situation that would operate to prevent the result mentioned. In New Jersey this corrective is found in the supervision over local assessors exercised by the state and county boards. It is in this connection that we find the significance of the coexistence in a single tax system both of the separation of central and local revenue and of central supervision over local assessments. To avoid as far as possible inequalities in assessments as between different individuals, different kinds of property, and different taxing districts, various states have tended toward the adoption of one or both of two distinct lines of reform in tax administration, viz., central supervision of local assessments, and the separation of central and local revenue. Neither one of these lines of reform is wholly satisfactory if adopted singly. A combination of the two, as embodied in the tax system of New Jersey, has been found to produce more satisfactory results, because each supplements the other and serves to correct in a measure whatever untoward effects might be produced through the operation of the other factor alone.

In the second place, it may be objected that, as a result of the separation of state and local revenue, the state derives the bulk of its income from corporations and that this concentration of state

taxation upon corporations is not an unmixed good, inasmuch as it lessens the direct concern of the individual taxpayer in the efficient administration of the commonwealth's finances. In the virtual absence of a direct property tax levied by the state, extravagance in the administration of the finances of the state will not directly affect the pocketbook of the individual property-owner, and he will therefore look with comparative equanimity upon such extravagance, and will not attempt to exercise any control over the state's financial officers in order to check it. This objection brings up the question of the ultimate aims which a tax system should be shaped to attain, any consideration of which would fall outside the limits of this paper. It may be pointed out, however, that the individual property-owner would not in any event be able to exercise, with continuous effectiveness, a control over the financial officers of the state, so as to prevent wastefulness and inefficiency in the collection of state taxes and extravagance in the spending of the public funds. Such control, in order to be continuously effective, ought to be exercised by executive officers who are themselves responsible either mediately or immediately to the individual taxpayers. It is submitted that in this manner the advantages of central supervision may be combined with consideration of local requirements and individual interests.

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